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DOCUMENT
ELECTRONICALLY FILED
DOC #:
DATE FILED: 10/4/2021

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September 27, 2021

VIA ECF

Hon. Mary Kay Vyskocil, U.S.D.J.
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Courtroom 18C
New York, NY 10007

Re: *Mersen USA EP Corp. v. TDK Electronics Inc. et al.*,
Case No. 1:21-cv-00763-MKV (S.D.N.Y.)

Dear Judge Vyskocil:

I write pursuant to Rule 9.B of your Individual Rules and Practices in Civil Cases to request that Plaintiff Mersen USA EP Corp. (“Mersen”) be permitted to file its Opposition to Defendants’ Motion to Dismiss the First Amended Complaint and accompanying papers under seal and publicly file a redacted version of same. The portions to be redacted represent confidential and proprietary information of Mersen. The proposed redactions are highlighted in the copy of Plaintiff’s Opposition to Defendants’ Motion to Dismiss the First Amended Complaint, Declaration of Roy Ball, and Declaration of Thomas E. Bejin accompanying the emailed version of this letter, which also attaches an unredacted version of the same for the Court’s records.

Mersen’s proposed redactions are necessary and narrowly tailored to protect its confidential and proprietary information. Courts regularly find that documents containing trade secrets, confidential research and development information, marketing plans, revenue information, pricing information, and similar materials satisfy the sealing standard. *Kewazinga Corp. v. Microsoft Corp.*, No. 1:18-CV-4500-GHW, 2021 WL 1222122, at *7 (S.D.N.Y. Mar. 31, 2021) (internal citations omitted). That is precisely the circumstance here. Mersen seeks to redact confidential technical information concerning its thermally protected metal oxide varistors (“TPMOV”), as well as confidential business plans, including customer information. For example, Mersen seeks to redact portions of Plaintiff’s Opposition to Defendants’ Motion to Dismiss the First Amended Complaint that describe confidential design elements of Mersen’s TPMOV. Mersen also seeks to redact portions regarding Mersen’s marketing plans for its new 25mm TPMOV. Indeed, redactions that protect against competitive harm are appropriate. *Syntel Sterling Best Shores Mauritius Ltd. v. TriZetto Grp.*, No. 15 CIV. 211 (LGS), 2021 WL 1541385, at *3 (S.D.N.Y. Apr. 20, 2021).

Defendants consent to Mersen's sealing request. To the extent the Court intends to deny this sealing application, Mersen respectfully requests an opportunity to re-file its Opposition to Defendants' Motion to Dismiss the First Amended Complaint to remove the confidential and proprietary information.

Thank you very much for your attention to this matter.

Respectfully submitted,


/s/ Thomas E. Bejin

Thomas E. Bejin, Bejin Bieneman PLC

cc: All Counsel of Record (via ECF)

GRANTED. Plaintiff Mersen USA is permitted to file its Opposition under seal and publicly file a redacted version pending further order from this Court. SO ORDERED.

Date: 10/4/2021
New York, New York


Mary Kay Vyskocil
United States District Judge